

CAUSE NO. 18-08-0777-CVA

SAN MIGUEL ELECTRIC,  
COOPERATIVE, INC.

Plaintiff,

v.

ALONSO M. PEELER, JR.,  
BARBARA GENE PEELER, AND  
AM PEELER RANCH, LLC

Defendants.

IN THE DISTRICT COURT

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Filed 2:15 §  
Margaret E. Littleton, District Clerk

81<sup>st</sup> JUDICIAL DISTRICT

AUG 14 2018

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Clerk District Court, Atascosa Co., TX  
By Michael Kezar Deputy

ATASCOSA COUNTY, TEXAS

**TEMPORARY RESTRAINING ORDER**

On the 14th day of August 2018, the Court considered the Original Petition, Application for Temporary Restraining Order, and Request for Temporary Injunction and Permanent Injunctive Relief (the "Petition") filed by Plaintiff San Miguel Electric Cooperative, Inc. ("Plaintiff" or "SMEC") against Defendants Alonso M. Peeler, Jr, Barbara Gene Peeler, and AM Peeler Ranch, LLC (collectively, "Defendants"). The Petition is properly verified by the Affidavit of Michael Kezar attached thereto.

The Court finds from the facts set forth in the Petition and supporting Affidavit with the documents incorporated therein that immediate and irreparable injury, loss, and damage will result to SMEC unless Defendants are temporarily restrained as requested in the Petition. As Defendants represented in their August 10, 2018 letter to SMEC, Defendants and their agents or representatives, without being restrained, will attempt to restrict and prohibit SMEC from accessing and using the Peeler Lease premises as defined in the Peeler Lease and amendments attached to the Petition. The Court further finds that Defendants and their agents or representatives, without being restrained, will attempt to restrict and prohibit SMEC from accessing and using the lands described in the various deeds, easements and leases attached to

the Affidavit of Michael Kezar in connection with the Application. Such threatened restrictions include, without limitation, "installing fencing, signage, and game cameras to [allegedly] protect their property and enforce the boundaries" which will interfere with San Miguel's use of the Peeler Lease premises for ongoing reclamation operations on the Peeler Lease and for contiguous mining operations on nearby properties. Without being restrained, Defendants will also attempt to deny SMEC access to and use of the Peeler Lease premises in direct contravention of SMEC's specific authorization under the Water Well Deed and Easement, Dragline Erection Site, Haul Road and Retention Pond Easements, Flood Easement, Transmission Line Easement, Buffer Zone Lease Agreement, and other documents referenced in the Affidavit of Michael Kezar. The Affidavit of Michael Kezar is attached hereto and incorporated by reference. Without being restrained, Defendants will also attempt to "tak[e] control over and sampl[e] the groundwater monitoring wells installed by [SMEC]" via "AM Peeler Ranch, LLC."

The Court finds that the foregoing actions will cause immediate and irreparable harm to SMEC and its members, cooperatives, ratepayers, employees and contractors by materially interfering in SMEC's ability to comply with applicable laws, regulations, and permits and by preventing SMEC from conducting activities critical to ongoing lignite mining and electric power generation operations. The Court finds that the foregoing injuries are irreparable because: (1) lack of access could result in SMEC being cited by regulatory agencies for violations of environmental laws and regulations and subject SMEC to fines and other penalties; (2) depriving SMEC of access to roadways for ingress and egress could force SMEC to prematurely cease mining operations and shut-in the electric generating plant; and (3) lack of access to SMEC's groundwater monitoring wells would deprive SMEC of access to ensure proper operation of the

groundwater wells and could lead to contamination of groundwater.

This Order is necessary to preserve the status quo pending a hearing on SMEC's Application for Temporary Injunction in this action and to restrain Defendants from committing further acts that would violate SMEC's rights and tend to render a judgment in this action ineffectual and meaningless, which would result in further irreparable injury and no adequate remedy at law. The Court further finds that Defendants interference and threatened interference is unreasonable pursuant to the December 16, 1993 Flood Easement between the parties and provides that a restraining order is appropriate without the necessity of proof or inadequacy of legal remedies or irreparable harm. An award of money damages in a final judgment following a trial on the merits would not be as complete, practical, or efficient to the prompt administration of justice as a temporary restraining order.

Accepting the factual allegations in the Petition as true for the purpose of SMEC's request for a temporary restraining order, the Court finds that: (1) SMEC has several valid causes of action against Defendants, and (2) SMEC has demonstrated a probable right to the relief sought.

It is, therefore, **ORDERED** that SMEC's Application for Temporary Restraining Order is **GRANTED** in its entirety.

It is further **ORDERED** that Defendants are hereby restrained and enjoined from:

1. Refusing to allow SMEC and its Invitees to use the Peeler Lease <sup>premises as described in the Petition</sup> ~~and/or Peeler~~ <sup>Property</sup> for the purposes of coal and lignite exploration, development, drilling, mining, production, reclamation and <sup>other</sup> ~~related~~ activities; <sup>specifically authorized by the Peeler Lease as amended, and deeds, leases and easements incorporated in the Petition</sup>
2. Interfering or attempting to interfere with SMEC's free and uninterrupted use of, or access to, the Peeler Lease premises and any other lands described in the deeds, leases and

to the extent  
authorized by such  
deeds, leases and easement

easements attached to the Affidavit of Michael Kezar incorporated herewith; and

3. Placing or attempting to place any gates or obstructions upon the Peeler Lease premises that would interfere with SMEC's access, or placing or attempting to place any locks or obstructions upon gates on the Peeler Lease premises that would interfere with SMEC's existing access, or removing any locks of SMEC on gates on the Peeler Lease premises.

This Order is binding upon the parties to this action, their officers, agents, servants, employees and attorneys, and upon those persons in active concert or participation with Defendants, including the Atascosa County Sheriff's Office, who receive actual notice of the order by personal service or otherwise.

← \* It is further **ORDERED** that upon the execution of a cash bond, or a bond with an acceptable surety, in the amount of \$ 10,000, the District Clerk shall issue citations complying with Texas Rule of Civil Procedure 686. The District Clerk shall also issue a writ of injunction for this Temporary Restraining Order complying with Texas Rule of Civil Procedure 687 and 688, and order that such writ be served on Defendants.

It is further **ORDERED** that this Temporary Restraining Order shall continue in effect until the earliest of: (1) further order(s) of this Court extending or modifying this Temporary Restraining Order, or (2) the expiration of fourteen (14) days after the date on which this Order is signed.

It is further **ORDERED** that SMEC's request for a temporary injunction be and is hereby set for hearing on the 28 day of August 2018, at 9:00 o'clock 9.m. in the 81<sup>st</sup> Judicial District Court of Atascosa County, Texas, and that Defendants shall then and there appear to show cause why a temporary injunction should not be granted and remain in effect during the pendency of this lawsuit, or until further order of this Court.

see  
next  
page.

SIGNED and ENTERED this 14 day of August, 2018, at 2:10

o'clock 4 .m.

Russell Wilson  
JUDGE PRESIDING

\* The following provisions are expressly incorporated into this order on page 2

A. The parties agree to cooperate in conducting sampling and testing of groundwater using ~~San Miguel's~~ <sup>the</sup> existing monitoring wells on the Peeler Lease premises. Defendants agree to provide 1 day written notice of intention to take samples with a list of all constituents for which testing shall be conducted and a target time and location for sampling. All such sampling under this provision will be conducted with both sides present to collect independent samples. Defendants currently anticipate such sampling to occur between August 27 and September 1, 2018.

San Miguel agrees to provide Defendants with the location, amount and date/time of any deposit of ash or any discharge of wastewater on the Peeler Lease premises during the duration of this restraining order.

C. Defendants intend to conduct geophysical studies on the Peeler Lease premises beginning on or about August 20 until on or about September 1, 2018. Defendants agree that any such study shall not interfere with San Miguel's operations as authorized by the Peeler Lease and associated deeds, leases or easements described in the Petition. Defendants further agree to assume all responsibility for compliance with any legal or regulatory requirements and to accept all liability for any penalty or damage that may occur as a result of the study.

including the use of geophysical logging to occur in the existing monitoring wells.  
San Miguel agrees not to interfere with Defendants' geophysical study as described herein.

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IN THE DISTRICT COURT

\_\_\_\_ JUDICIAL DISTRICT

ATASCOSA COUNTY, TEXAS

**AFFIDAVIT OF MICHAEL KEZAR**

THE STATE OF TEXAS §  
§  
COUNTY OF ATASCOSA §

BEFORE ME, the undersigned authority, on this day personally appeared Michael Kezar, who swore or affirmed to tell the truth, and stated as follows:

"My name is Michael Kezar. I am over the age of 18 years and am fully competent to make this affidavit. The facts contained in this affidavit are true and correct and within my personal knowledge. I have read Plaintiff's Original Petition, Application For Temporary Restraining Order, and Request for Temporary Injunction and Permanent Injunctive Relief, and I am familiar with all of the facts stated therein and they are all true and correct.

1. I serve as the General Manager of the San Miguel Electric Cooperative (San Miguel) in Atascosa County, Texas. San Miguel owns and operates a 410 megawatt mouth-of-mine, lignite-fired generating plant and associated mining facilities that furnish power and energy to the South Texas Electric Cooperative, which in turn distributes power throughout South Texas. San Miguel holds various mining leases and other contractual rights to use the surface of large

tracts of land in Atascosa and McMullen Counties in support of San Miguel's mining and electric generation activities.

2. San Miguel is successor to the original lessee of a Coal, Lignite and Mineral Lease dated August 15, 1953 from Defendants' predecessors (The "Peeler Lease"). The Peeler Lease has been amended seven times between 1953 and the present and currently covers approximately 6,300 acres in Atascosa County. In addition to the Peeler Lease and amendments, San Miguel and Defendants are parties to various other deeds, easements and agreements governing access to and use of the Peeler Lease premises. A partial list of these leases, amendments, deeds, easements and other agreements between San Miguel and Defendants is as follows:

- A. Coal, Lignite and Mineral Lease dated August 15, 1953 between A. M. Peeler and James F. Gray
- B. Lease Amendment to Coal, Lignite and Mineral Lease dated August 24, 1966
- C. Lease Amendment No. 2 to Coal, Lignite and Mineral Lease dated September 23, 1975
- D. Lease Amendment No. 3 to Coal, Lignite and Mineral Lease dated February 4, 1976
- E. Lease Amendment No. 4 to Coal, Lignite and Mineral Lease dated November 10, 1976
- F. Lease Amendment No. 5 to Coal, Lignite and Mineral Lease dated June 12, 1978
- G. Lease Amendment No. 6 to Coal, Lignite and Mineral Lease dated July 10, 1981
- H. Lease Amendment No. 7 to Coal, Lignite and Mineral Lease dated October 1, 1981
- I. Transmission Line Easement dated November 9, 1979 from Grantor Alonzo M. Peeler, Jr. and wife, Barbara Gene Peeler to Grantee San Miguel Electric Cooperative, Inc.

- J. Warranty Deed and Easement for Water Well Sites dated November 9, 1979 from Alonzo M. Peeler, Jr. and wife, Barbara Gene Peeler to San Miguel Electric Cooperative, Inc.
- K. Easement dated October 29, 1976 between Alonzo M. Peeler, Jr. and wife, Barbara Gene Peeler and Brazos Electric Power Cooperative, Inc. and South Texas electric Cooperative, Inc.
- L. Amended Easement No. 1 dated March 23, 1977
- M. Amended Easement No. 2 dated January 18, 1980
- N. Amended Easement No. 3 dated February 15, 2001
- O. Memorandum Giving Notice of a Flood Easement dated January 1, 1994 between Alonzo M. Peeler, Jr. and Wife, Barbara Gene Peeler and San Miguel Electric Cooperative, Inc.
- P. Easement dated December 16, 1993 between Alonzo M. Peeler, Jr. and wife, Barbara Gene Peeler and San Miguel Electric Cooperative Co.
- Q. Lease Agreement dated November 24, 1975 between Alonzo M. Peeler, Jr. and Wife, Barbara Gene Peeler and San Miguel Electric Cooperative, Inc.

3. True and correct copies of items A, C, G, and I through Q are attached as Exhibits hereto and incorporated by reference.

4. Pursuant to the Peeler Lease and these various other agreements, San Miguel has mined lignite from the Peeler Lease premises and other contiguous or nearby lands and has further used the premises as authorized by the Peeler Lease for reclamation and required monitoring activities. San Miguel has also used portions of the Peeler Lease premises as specifically authorized in the various other agreements to support mining operations on other lands and to



support operations of the electric generating plant. San Miguel has expended and continues to expend many tens of millions of dollars mining and in reclamation of the Peeler Lease and erecting and maintaining various roads, water wells, retention ponds, transmission lines and other facilities as authorized by the Peeler lease and associated agreements. While mining for lignite on the Peeler Lease premises has ceased, San Miguel is currently engaged in ongoing mining on other nearby properties as well as ongoing reclamation of the Peeler Lease premises. San Miguel has complied with the Peeler Lease and other agreements in all material respects.

5. Except as discussed separately below, these various leases, easements, and surface use agreements will be referenced collectively as the "Peeler Agreements."

6. On August 10, 2018 at 5:01 PM, I received an email copy of a letter from Mary Whittle, attorney for Alonzo and Barbara Gene Peeler announcing her client's belief that, on August 14, 2018, any leasehold, tenancy, or license that San Miguel holds for properties owned by the Peelers will expire. Ms. Whittle announced several actions that (a) had already been taken and (b) would be taken by the Peelers starting on August 14 that threaten immediate and irreparable harm to San Miguel and violate several, legally-effective lease, easement, surface use, and right-of-way agreements between the Peelers and San Miguel (hereinafter, "Peeler Violations" and "Peeler Threatened Violations").

7. The Peeler Violations to date include (quotations are from Peeler August 10, 2018 letter):

A. The Peelers' notification to the Evergreen Underground Water Conservation District alleging that San Miguel would no longer have legal control of the leasehold acreage which "may impact SMECT's groundwater production rights" and

B. The Peelers' notification of the Atascosa County sheriff "of SMECT's eviction from the Mineral Lease acreage" which, in the absence of a colorable claim to support that conclusion, constitutes a false report to a peace officer.

8. The Peeler Threatened Violations that are to occur beginning after midnight on August 14, 2018, include (quotations are from Peeler August 10, 2018 letter):

A. The Peelers "will be installing fencing, signage, and game cameras to protect their property and enforce the boundaries;"

B. The Peelers will deny "access to the water control facilities referred to in Amendment 6 after August 14;"

C. Other than the Haul Road, which the Peelers state is the "only roadway" San Miguel may continue to use for ingress and egress from the plant to contiguous properties as necessary for mining operations, the Peelers will apparently deny access to other roadways; and

D. Beginning on August 20, the Peelers, through "AM Peeler Ranch, LLC," will be "taking control over and sampling the groundwater monitoring wells installed by [San Miguel]."

9. The Peeler Violations and Peeler Threatened Violations stand to cause immediate and irreparable harm to San Miguel and its member cooperatives, ratepayers, employees and contractors by materially interfering in San Miguel's ability to comply with applicable laws, regulations, and permits and by preventing San Miguel from conducting activities critical to ongoing lignite mining and electric power generation operations. Examples of activities that will be impaired by the Peeler Threatened Violations and thereby threaten irreparable harm include the following:

A. Access to Comply with Legal Requirements Applicable to the Peeler Property. The nature of the past mining, ongoing reclamation, and ancillary activities on the Peeler Property obligates San Miguel to an extensive set of legal requirements that necessitate continued access to the Peeler Property. A representative list of these requirements is discussed below in the context of the regulatory programs and agencies that oversee them:

- I. Mine Reclamation Activities Regulated by the Texas Railroad Commission (RRC) and Office of Surface Mining (OSM) . As set out in the map attached as Exhibit 1, several lignite removal areas are at various stages of reclamation under the timelines, technical requirements, and oversight of the Railroad Commission of Texas and the Office of Surface Mining within the United States Department of the Interior. The reclamation of these areas is governed by an extensive set of statutory and regulatory provisions, including Texas Natural Resources Code Chapter 134 - Texas Surface Coal Mining and Reclamation Act and 16 Texas Administrative Code (TAC) Chapter 12. Chief among these reclamation requirements is an extensive set of reclamation performance standards which necessitate San Miguel's continued access to the Peeler Property to conduct sampling, data collection and other activities in support of their compliance with 16 TAC 12.384 - .388 (backfilling and grading requirements), 12.389 (stabilization of surface area requirements), and 12.390 - .395 (revegetation requirements). This includes the "Final Pit" in "Area A" where San Miguel continues to conduct operations in compliance with all applicable legal requirements to ultimately achieve "approximate original

contour (AOC)" and bond release. Lease documents applicable to this area specifically provide for the ability of San Miguel to bring materials from off-site (e.g. coal combustion residuals) and San Miguel must have continuous access to the Peeler Property to conduct these activities. For example, Peeler Lease Amendment 2, paragraph VI, states in relevant part as follows: "[a]ny materials returned from the plant site for burial in the excavated areas must be covered by at least ten feet (10 ft.) of subsoil . . . in order to prevent any leaching of obnoxious acids or chemicals . . . ." Failure to conduct these activities could be the basis for enforcement actions by regulatory agencies.

II. Other Structures Located on the Peeler Property Governed by Environmental Regulations.

In addition to the reclamation requirements applicable to properties that have been disturbed for lignite removal, there are several other supporting/ancillary structures authorized by lease and other agreements with the Peelers that San Miguel was required by various environmental regulations to construct, maintain, and monitor. Those structures include the following:

- i. Water Control Facilities Regulated by the RRC/OSM, the Texas Commission on Environmental Quality (TCEQ) and the United States Environmental Protection Agency (EPA). Water control facilities are regulated as part of the overarching RRC/OSM reclamation regulations, as well as concurrently regulated by the TCEQ and EPA through a permitting program administered under the Federal Clean Water Act and the Texas Water Code. EPA has delegated this water quality permitting program authority to TCEQ, which is administered in Texas

as the Texas Pollution Discharge Elimination System (TPDES) program. RRC rules require surface water management and control, including the construction, maintenance, and monitoring of sedimentation ponds which are concurrently governed by the TCEQ through a TPDES permit. Ponds 1, 3, 5, 6, 7, 9B, 10, and 11 are the RRC and TCEQ -regulated sedimentation ponds located on the Peeler Property. Among other requirements, San Miguel has an obligation to inspect the ponds, and monitor discharges from outfalls associated with these ponds. RRC regulations 16 TAC 12.148, 12.347(a)(11), and 12.354 require various pond inspections, maintenance, monitoring and renovation activities. Without access to these ponds, SMECI will be in violation of these requirements. TCEQ regulates these ponds under TPDES Permit No. WQ000204300, the terms of which San Miguel cannot comply with unless San Miguel continues to have access to the Peeler Property to inspect, maintain, and monitor these ponds and their associated outfalls. Failure to do so would be a violation of the TPDES permit as well as 30 TAC 305.125(1) of the TCEQ regulations.

- ii. Other Diversions & Impoundments. In addition to the above-referenced sedimentation ponds, RRC regulations govern other diversions, impoundments and temporary structures – many of which are located on the Peeler Property as part of the ongoing reclamation activities. Without access to these structures, San Miguel cannot comply with the

requirements of 12.148 and 12.354 governing the operation, maintenance, and ultimate removal of these structures.

iii. Groundwater Monitoring Wells. RRC regulations have extensive requirements to construct, maintain, and monitor groundwater monitoring wells. Without access to the extensive groundwater monitoring well network on the Peeler Property, San Miguel will not be able to comply with 16 TAC 12.146 and 12.348. Equally as troubling is the threat by the Peelers to 'take control over' the groundwater monitoring wells installed by San Miguel. Not only would such an action by the Peelers' put San Miguel at risk of noncompliance with applicable RRC regulations, there is no assurance that the highly technical groundwater sampling techniques will be properly followed by the Peelers, which could result in groundwater cross-contamination issues.

iv. Wetlands Regulated by the United States Army Corps of Engineers (USACE). San Miguel has USACE permits issued under Section 404 of the Federal Clean Water Act that require access to the Peeler Property to conduct activities necessary to prepare annual and status reports.

v. Roads and Ramp Dust suppression – RRC and the Mine Safety and Health Administration (MSHA) require dust to be suppressed on certain roads and ramps. The Easement agreement cited above at paragraph 2(M) also specifically requires San Miguel to "use diligence and care through watering, or other means reasonably necessary, to keep down

dust” resulting from the use of expressly authorized haul roads. Without such access, San Miguel will be in violation of 16 TAC 12.400(b) (Roads) as well as MSHA regulations promulgated under the Federal Mine Safety and Health Act of 1977 (Mine Act) as amended by the MINER Act of 2006.

- vi. Water Storage and Blending Ponds, Class 5 Injection Wells, and Electrical Substations Critical to Support Depressurization Wells, their Water Management and Dust Suppression Supply. San Miguel’s RRC permit requires an extensive depressurization well network, as well as dust suppression and lighting on a wide network of roads, ramps and other active areas. These are only accomplished through a series of ponds, pipes, pumps, lights, and wells. For example, barring access to Pond L on the lease, the HDPE pipeline that runs from Pond L to Pond 27, the blending setup at Pond 27, as well as the Class 5 injection wells that exist on the lease, would preclude San Miguel from discharging its RRC permit obligations to conduct pressurization and dust suppression activities. Relatedly, electrical substations at Pond 9B and at the Ramp 10 final pit on the lease provide power to several of the wells and pumps in this system, as well as the required lighting for roads, ramps and other active areas. If any of these activities are curtailed due to access being denied, it would endanger compliance with all of the above-referenced RRC permit requirements, many of which relate to key safety considerations. Most notably, jeopardizing the depressurization system

risks pit flooding due to excessive pressure from the Unit 22 formation, leading to risk exposure for miners, an inability to mine lignite, and the resulting curtailment of the San Miguel power generation plant.

B. Access to Facilities Critical to the Operation of Lignite Mining and Electric Power

Generation. In addition to the access needed to comply with applicable legal requirements, San Miguel must have access to various parts of the Peeler Property in order to ensure the consistent production and delivery of fuel from the lignite mine so the electric generation plant can continuously produce the 410 megawatts of electricity depended upon by over 205,000 households. Moreover, historically thin reserve margins in the Texas electric grid this summer make risky any action that could result in an interruption or reduction of power generation at the San Miguel facility. As well documented in recent reports by the Electric Reliability Council of Texas (ERCOT), reserve margins are expected to fall well below the recommended levels to prevent brownouts and blackouts in the Texas grid.<sup>1</sup> Under several scenarios modeled by ERCOT, the reserve margins (or cushion) are expected to thin so much that unavailability of a single plant the size and in the location of the San Miguel plant could put at risk the reliability of the Texas grid.<sup>2</sup> Among the operations for which San Miguel has clear legal rights and essential operational needs are the following:

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<sup>1</sup> See Electric Reliability Council of Texas, Preliminary Seasonal Assessment of Resource Adequacy for the ERCOT Region (SARA) Summer 2018, March 1, 2018 at 2.

<sup>2</sup> Under forecasted peak load with typical outages, ERCOT anticipates available summer 2018 capacity for operation reserves under normal operation conditions will be 553 MW. Under scenarios with extreme load, outages, or low wind output, ERCOT models available capacity to drop to between -2,013 MW to -2,844 MW. Available summer capacity for the San Miguel unit is 391 MW, meaning that the loss of the unit would shrink available reserves at peak under normal conditions to less than 200 MW or further aggravate negative capacity conditions under ERCOT's various modeling scenarios. *Id.* at 2-3.



- I. Carrizo Water Wells on Peeler Property. As reflected in the instrument cited in paragraph 2(J) above, San Miguel holds warranty deeds and access easements for four platted wells on the Peeler Property. Denying access to them will prevent San Miguel operations personnel from conducting their operational checks, which are conducted every 12 hours due to the critical role the wells play in supplying make-up water to the plant boiler and cooling towers essential to the generation of electricity.
- II. Dragline Walkway Path. The path to move draglines from the Harrison BX tract to the South Leases transects the Peeler lease. Barring access to the dragline walkway will result in the stranding of the dragline assets and reduction in lignite production, leading to a curtailment of plant output or requiring the plant to be taken out of service. It is important to point out that this walkway is a highly engineered structure that requires a special design to withstand the extraordinary weight of the draglines. The haul road the Peelers have indicated they will grant access to is not designed for and cannot serve as a dragline walkway.
- III. Access to Electric Transmission Lines that Transect Peeler Property. San Miguel has 69kV power lines for which transmission easements are held that provide power to critical mine equipment (large draglines). Barring access to those lines during an outage to make repairs would take the draglines out of service, resulting in a loss of lignite production. A prolonged loss of lignite production necessarily interrupts lignite deliveries to the electric generation

plant and, as a result, would force the plant to significantly reduce output or shut down.

IV. Dragline Erection Site. The mine dragline erection site is located within the Peeler Property and is governed by the October 29, 1976 Easement described above. Stored on that site are truck tires and other critical pieces of equipment that are necessary to support ongoing mining and reclamation operations.


V. The Reclamation and Surveying Office. Located on the Peeler Property in compliance with the Peeler Agreements is a satellite office where reclamation and surveying staff are located. In addition, tractors, implements, GPS and internet equipment are all located at this office, so access is critical to support ongoing mining and reclamation activities.

10. Defendants' actual and threatened interference with San Miguel's access to the Peeler Lease has required San Miguel to engage legal counsel to enforce and protect its rights and interests against Defendants. As such, San Miguel has necessarily incurred attorneys' fees, costs and expenses in this matter.

State of Texas County of Atascosa

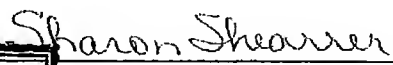
Further Affiant sayeth not.

Date: August 13, 2018

  
Michael Kezar

SWORN to and SUBSCRIBED before me, the undersigned authority, on the 13th day of August 2018, by Michael Kezar.



  
SHARON SHEARRER Notary Public, State of Texas [Notary's signature.]  
My Notary ID # 4175083 [Notary's seal.]  
Expires July 30, 2021